

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARINE POWER and EQUIPMENT COMPANY,
INC., a Corporation, and W.F.I.
INDUSTRIES, INC., a Corporation,

Defendants.

Civil No.

AFFIDAVIT OF
MICHAEL F. MATTA

Michael F. Matta, being first duly sworn upon his oath, hereby
deposes and says:

1. I am an Environmental Engineer with the Region 10 Office of the
U.S. Environmental Protection Agency (EPA). I have been employed by EPA
since 1982. Prior to my current position with EPA, I served for over five
years as a Survey Officer and Oceanographic Officer with the National Oceanic
and Atmospheric Administration. I received a Bachelor of Science degree in
Physical Science from Old Dominion University in Norfolk, Virginia, and an
Associate degree in Engineering from Pennsylvania State University in 1970.

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1 2. On February 25 and 26, 1985, I performed several dives on an
2 investigation of the floor of the Duwamish River in the vicinity of the Marine
3 Power and Equipment Company facility located at 6701 Fox Avenue South, Seattle,
4 Washington. The purpose of my inspection was to determine the presence of any
5 accumulated sandblasting debris or other material on the bottom of the Duwamish
6 River that had been discharged from the Marine Power facility.

7
8 3. My first dive was made between approximately 12 noon and
9 12:30 p.m. on February 25, 1985. The area that I inspected during this dive
10 is indicated in the area labeled as "Dive 1" in the diagram that is attached
11 as Exhibit 1 to this affidavit. On this dive, conducted in the vicinity of
12 the company's table dock as identified on Exhibit 1, I observed black shiny
13 granular material and paint chips covering the bottom beneath the entire edge
14 of the table dock that faces the Duwamish River. I also observed an accumu-
15 lation of material 10 feet high beneath the table dock edge. At least the
16 top one foot of this accumulation consisted of the black sandblasting grit.

17 4. I made a second dive on February 25, 1985 in the Duwamish River
18 near the Marine Power facility. This dive took place between approximately
19 3:15 p.m. and 4:00 p.m. As on my first dive that day, I was accompanied by
20 Andrew Hess, another EPA diver. During this dive I inspected the river
21 bottom in the area labeled as "Dive 3" on the diagram that is Exhibit 1
22 hereto. I observed the same black shiny material and paint chips at the
23 bottom of the river at this location as I had observed during my first dive.
24 The black sandblasting material was present in intermittent mounds underneath
25 the table dock. The mounds of black material were approximately eight inches
26 in height.

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1 5. On February 26, 1985, I made another dive in the same general
2 area of the Duwamish River near the facilities of Marine Power and Equipment
3 Company. This dive took place between approximately 12:30 p.m. and 1:00 p.m.
4 The area of the river bottom that I inspected during this dive is indicated
5 by the area labeled as "Dive 5" on Exhibit 1. Near the pier pilings, at a
6 depth of approximately 30 feet, I observed deposits of black sandblasting
7 material and paint chips. I probed the sediment with my hand and determined
8 that the sandblasting material had accumulated to a depth of at least ten
9 inches near the base of the pier.

10 6. During the dives described above that I made in the Duwamish
11 River near the Marine Power facility, other EPA inspectors and I took a
12 number of photographs. One of those photographs is attached as Exhibit 3 to
13 this affidavit. That photograph was taken on February 25, 1985, during "Dive
14 3," and depicts an area of the bottom of the Duwamish River near the northern
15 edge of the table dock. The camera used was a Nikonos 35 mm underwater
16 camera, having a lens with a focal length of 35 mm. This photograph shows a
17 pile of sandblasting debris that is similar to other piles that I observed
18 during my three dives in the Duwamish River.

19 7. The purpose of the three dives that I conducted as described
20 above was to determine the extent of deposition of sandblasting debris from
21 the Marine Power facility onto the floor of the Duwamish River, not to conduct
22 an inventory of the fish and other biota in that section of the Duwamish.
23 Nevertheless, during the dives I observed various fish, red rock crab, and
24 small shrimp near the Marine Power facility.
25
26

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1 8. In addition to performing the three dives described above, I
2 boarded a small boat and obtained samples of the bottom sediment of the
3 Duwamish River near the Marine Power facility, using a small clam-shell type
4 dredge sampler that I lowered from the boat. I conducted such sampling
5 between approximately 11:20 a.m. and 12 noon on February 26, 1985. One of
6 the samples I obtained was from a point approximately 375 feet north of the
7 Marine Power facility, downstream from the facility. The dredging device
8 that I used could obtain a sediment sample to a depth of eight inches.
9 Visual analysis of the said sample disclosed the presence of sandblasting
10 debris and some paint chips throughout the upper eight inches of sediment
11 that was sampled. I also obtained other sediment samples from the Duwamish
12 River upstream, that is to the south of, the Marine Power facility. These
13 samples contained light and dark clay material, and no evidence of black
14 sandblasting debris. This distribution of debris, combined with the smoothed
15 appearance of the sediment piles that I observed during my dives in the
16 Duwamish River as I have described above, indicates that the river current
17 spreads the sandblasting material that is discharged from the Marine Power
18 facility over the adjacent floor of the Duwamish.

19
20 9. On February 27, 1985, I made two dives near the Marine Power and
21 Equipment facility located on Lake Union at 1441 North Northlake Way, Seattle,
22 Washington. A layout of the company's Lake Union dry dock facility is given
23 on the diagram that is attached as Exhibit 2 hereto. That diagram shows the
24 locations of dry docks numbered 1-3 and 6, 8 and 9, and also shows the areas
25 that I inspected during Dive 1 and Dive 2. My first dive took place between
26

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1 approximately 10:30 a.m. and 11:00 a.m. During that dive I inspected the area
2 identified as "Dive 1" on Exhibit 2. On that dive, I observed sandblasting
3 debris, including paint chips, on the bottom of the lake on the southern and
4 western sides of dry dock No. 8. These deposits extended to a depth of at
5 least one foot and also contained numerous colored paint chips. I also
6 observed a white paint spill on the bottom of the lake south of dry dock No. 8
7 adjacent to the craneway at the dock. The paint stuck to my swim fins and
8 gloves.

9
10 10. My second dive on February 27, 1985 at the Lake Union facility
11 of Marine Power was made between 12:37 p.m. and 1:10 p.m. The area that I
12 inspected during this dive is identified as "Dive 2" on the diagram that is
13 Exhibit 2. During this dive I observed deposits of sandblasting material
14 between the southern ends of dry docks Nos. 3 and 6. This material had been
15 deposited in crust-like layers on the lake bed, in depths of at least one
16 foot. Water depth in the area was forty feet. By comparison, the water
17 depth in the adjacent Lake Union ship channel is 50 feet and contains sedi-
18 ments that are very light in color and weight, and consist of very fine
19 particles.

20 11. During the dives described above that I performed in Lake
21 Union near the Marine Power facility, I took a number of photographs using the
22 same camera and lens as specified in paragraph 6 above. Two of those photo-
23 graphs are attached to this affidavit. The first, labeled as Exhibit 4, was
24 taken on February 27, 1985, during Dive 1 near the Lake Union facility. The
25 second photograph, also using the same camera and lens as specified in
26

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1 paragraph 6 above, was taken on February 27, 1985 during Dive 2 at the
2 facility. It is labeled as Exhibit 5 to this affidavit. Exhibit 4 depicts
3 the presence of substantial amounts of sandblasting debris, including paint
4 chips, on the floor of Lake Union near dry dock 8. Exhibit 5 shows deposits
5 of fresh paint on the floor of Lake Union near the 50 ton craneway, as
6 identified on the diagram attached as Exhibit 2.

7
8 12. On Friday, March 1, 1985, I collected dredge samples from
9 the floor of Lake Union near the Marine Power and Equipment facility, using a
10 small clam-shell type sampler that I lowered from the boat. In samples that
11 I obtained at distances of approximately 30 feet south and 200 feet south of
12 drydock #3, I observed layers of gray powder-like material in each sample
13 along with sandblasting grit. The gray material appeared to be paint debris
14 or sanding residue from gray paint.

15
16 Michael F. Matta
MICHAEL F. MATTA

17
18 SUBSCRIBED AND SWORN TO BEFFORE ME this 11 day of March, 1985.

19
20
21 L. D. T. B. I.
22 Notary Public in and for the State
23 of Washington, residing at _____.

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MARINE POWER & EQUIPMENT COMPANY

6701 Fox Ave. S., Seattle, Washington

February 25-26, 1985

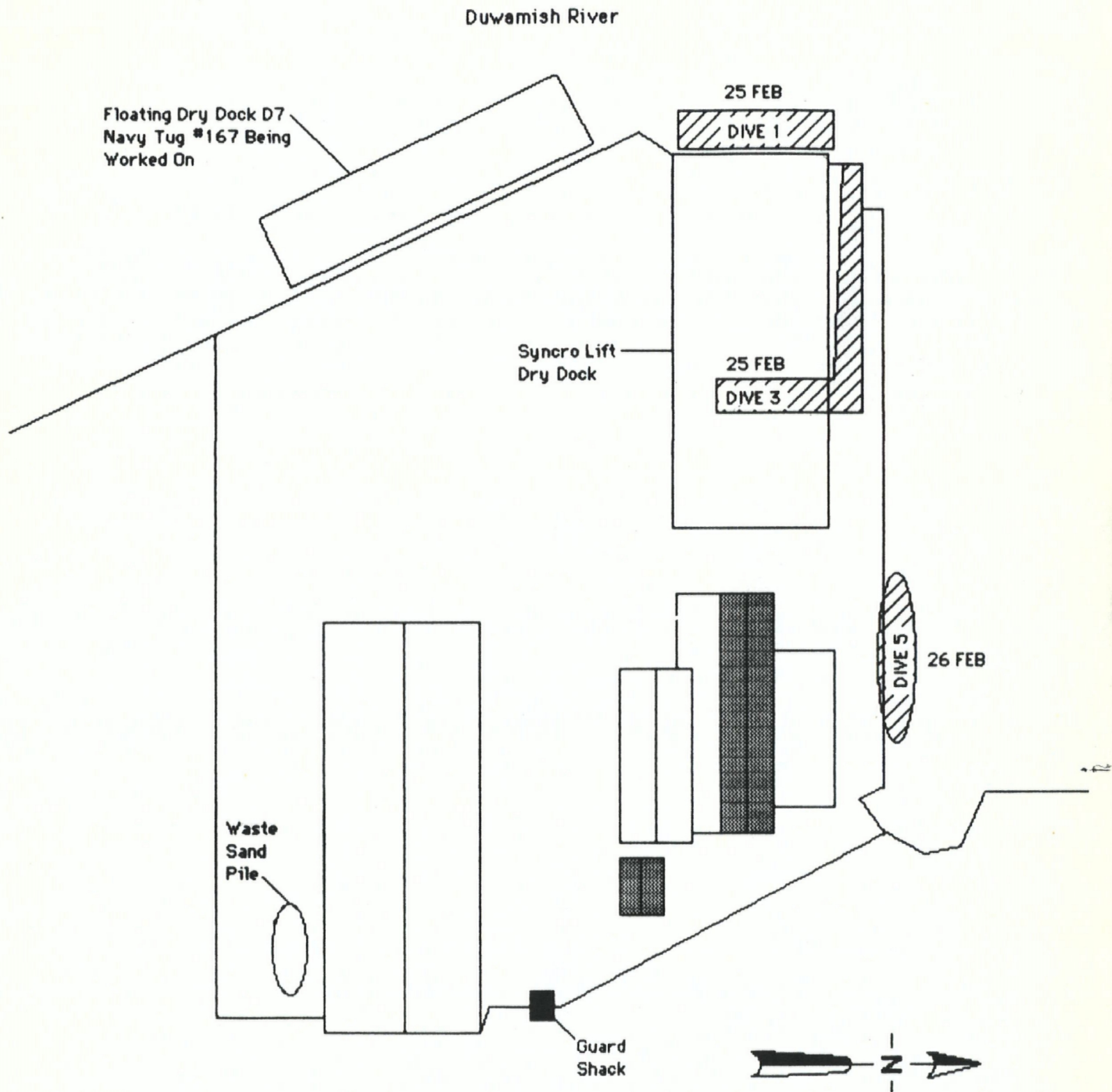


Exhibit 1 Dive Locations

Scale Is Estimated

MARINE POWER & EQUIPMENT COMPANY

1441 North Northlake Way, Seattle, Washington

February 27, 1985

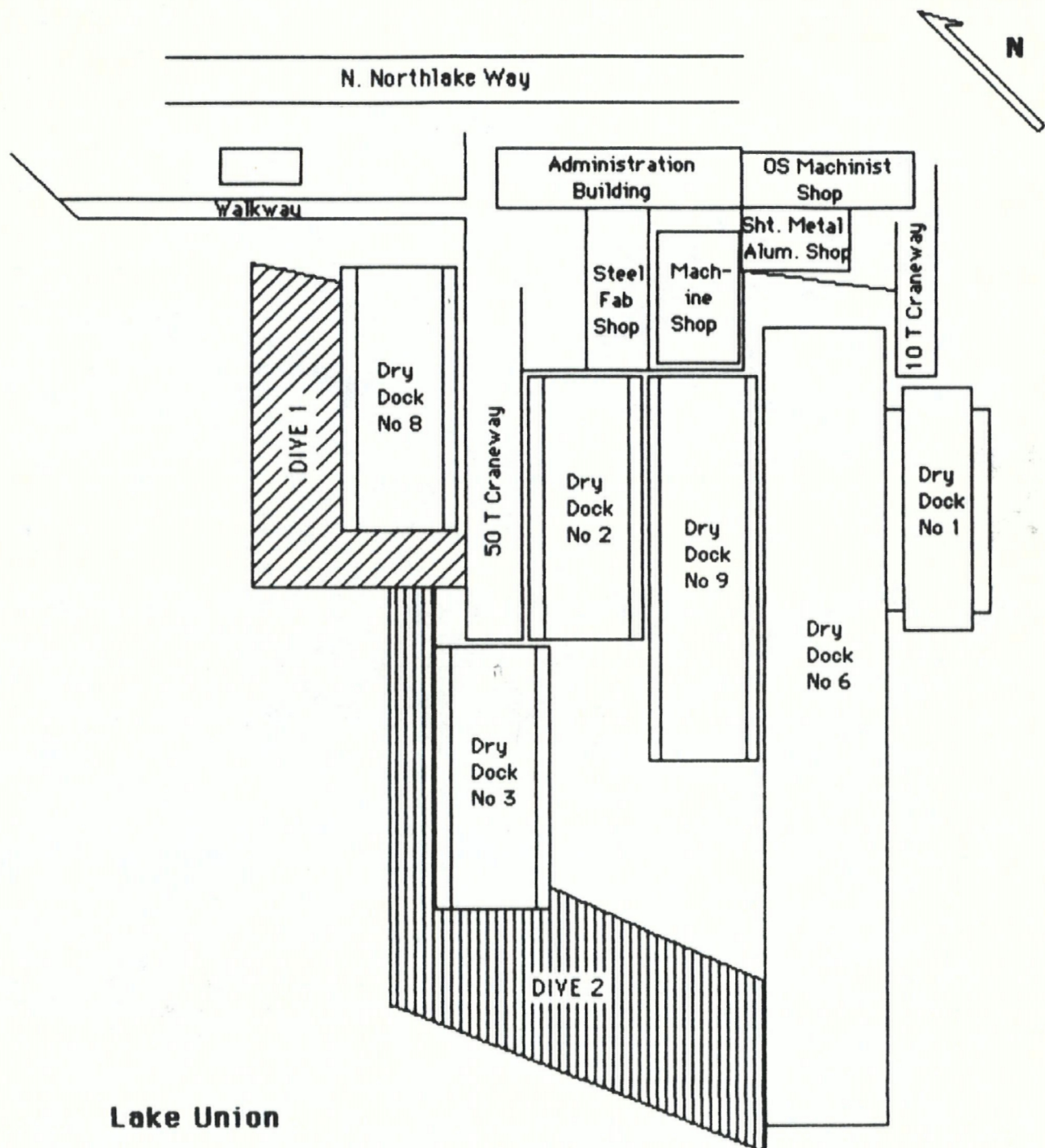


Exhibit 2 Dive Locations

Scale Is Estimated